

DRAFT

OGC/JMC:mmm (3 Dec 63)

Objectives were raised within the Agency by the Director of Training to the following provision of the act<sup>1</sup> as inconsistent with cover and security arrangements necessary to the operations of the Agency, and in conflict with the exemptions from laws requiring the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency provided under Section 7 of the Central Intelligence Agency Act of 1949:

a. Section 2(2) S. 385 is in conflict because Section 7, P.L. 110, specifically excludes the Congress of the United States from receiving reports from the Bureau of the Budget which disclose the functions of CIA.

b. Section 2(4) S. 385 by implication would give the Civil Service Commission a "need to know" with respect to the sensitive operations of the Central Intelligence Agency if the Commission is to effectively promote and coordinate the training operations of the Agency. . . .

c. Section 5. Since the training needs and requirements of the Agency are directly related to the functional responsibilities of the operating components, the provision of information to Civil Service Commission concerning the training needs and requirements of the Agency would of necessity involve providing information concerning the functional activities of CIA.

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Objectives excerpted from a Memorandum for the General Counsel from the Director of Training, dated 16 July 1958

d. Section 6. Should the Agency be subjected to the training regulations of the Civil Service Commission, the security of the Agency's training activities would be seriously impaired and the terms of reference specified for the type of regulation to be issued by the Commission in section 6 would pose unacceptable operational and administrative restrictions on the Agency's training effort. . . . It would be impracticable and insecure to attempt any degree of uniformity in the Agency's training activities, plans, or programs with programs of training required by other departments of the Government, since no other department of the Government has a mission comparable with that of CIA. . . .

e. Section 8. This section of the act provides, among other things, for the utilization of the training program of Government facilities under the jurisdiction or control of other departments and agencies. Since the Agency's training programs cover methods and techniques peculiar to intelligence operations, to authorize by law that other agencies might utilize CIA's training programs would clearly violate the "need to know" principle and conflict with the responsibilities of the Agency to protect the unauthorized disclosure of information pertaining to the foreign intelligence activities of the United States.

f. Both sections 9b and 9c are in conflict with the provisions of Section 7, P.L. 110, for different reasons. Sound security practices followed by CIA dictate the necessity for careful compartmentation within the Agency, and such practices would preclude the Agency from carrying out the provisions of section 9b. . . .

g. The limitations on training of employees through non-Government facilities imposed by section 12 of S. 385 would be totally impracticable from the standpoint

sent to the Civil Service Commission for inclusion in overall reports to the Congress. I believe that disclosure of the information which would be required if the Agency were not excepted would adversely affect the national interest and the operations of CIA. Further, such disclosure would conflict with my responsibility under Section 102(d)(3) of the National Security Act of 1947, as amended, "...for protecting intelligence sources and methods from unauthorized disclosure." Certain of the reporting requirements are additionally in conflict with Section 7 of the Central Intelligence Agency Act of 1949, as amended, which further implements Section 102(d)(3) of the National Security Act of 1947, as amended.

The Agency has carefully considered the specific provisions of Public Law 85-507, and I recommend Presidential exception be secured in accord with the enclosed draft directive. . . .

On 17 September 1963 Roger W. Jones, Acting Director, Bureau of the Budget, replied. He agreed in principle that the Agency should be exempted from some provisions of the act; however, he requested modifications of the Agency requests regarding Sections 5, 7, 8, 9(b), 19(c), 23(a).

Inasmuch as these modifications were not unreasonable and did not materially alter the fundamental exceptions which the Agency desired, the Director<sup>1</sup> by letter of 4 October 1958<sup>2</sup> accepted the suggested modification with the understanding

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<sup>1</sup>Memorandum for Deputy Director (Support) from Legislative Counsel

<sup>2</sup>Letter from Director of Central Intelligence to Acting Director, Bureau of the Budget

that for purposes of Sections 21(a) and 23(a) the Agency would be "continuing" its training program rather than "establishing" a new program.

The Bureau of the Budget subsequently submitted the proposed Presidential Directive to the Civil Service Commission for comment. The Chairman of the Commission replied that the proposed exemptions from Sections 6, 14, and 16 of the Act seemed unnecessary; that exemption from only a portion of Section 7 would effectively remove the Agency from Commission regulations issued under authority of Section 6; that the exemption from Section 10 should read: "so much of section 10 as provides, in accordance with regulations issued by the Commission under authority of section 6(a)(8)"; and that the exemption from Section 11 be from the whole section rather than a portion thereof. When these comments were forwarded to CIA,<sup>1</sup> Mr. Houston<sup>2</sup> replied on behalf of the Agency. He agreed to the change of wording regarding Section 10, to the suggestion that no exemption be requested from Section 14, and to the suggestion that an exemption be taken from all of Section 11. In the interest of clarity, he urged retention of the ~~EXEMPTION FROM SECTIONS 6 AND 16~~ exemptions from Sections 6 and 16.

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<sup>1</sup> Letter from Arthur B. Focke, General Counsel BOB, to Director Central Intelligence Agency, dtd 15 January 1958

<sup>2</sup> Letter to Arthur B. Focke, General Counsel, BOB, from Lawrence R. Houston, dtd 22 Dec ember 1958

In discussions with the Department of Justice in January objection was made to the requested exemption to Section 19(d). By letter of 21 January 1959<sup>1</sup> CIA accepted the deletion of Section 19(d) from the draft Executive Order. On 18 February 1959 President Eisenhower signed Executive Order 10805, "Designating the Central Intelligence Agency as Excepted From Certain Provisions of the Government Employees Training Act." The critical language of the order read as follows:

Section 1. The Central Intelligence Agency is hereby designated as excepted from the following-described provisions of the Government Employees Training Act:

(a) Sections 2(4), 6, 9(b)(1), 11, 12, 15, 16, and 18.

(b) The last sentence of section 5.

(c) That part of section 7 which reads "shall conform, on or after the effective date of the regulations prescribed by the Commission under section 6 of this Act, to the principles, standards, and related requirements contained in such regulations then current,".

(d) That part of section 10 which reads "in accordance with regulations issued by the Commission under authority of section 6(a)(8)."

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Next 5 Page(s) In Document Exempt